

Application No. 52229-0012

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

O'Regan et al.

Application No.: 10/534,206

Confirmation No.:

Int. Filing 06 November 2003

Date:

Examiner: n/a

Art Unit: n/a

For: SYSTEM FOR BILLING RATING AND
SELECTION OF ACCOUNTS

Mail Stop PCT

Commissioner For Patents

P.O. Box 1450

Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R. § 1.47(a)

Dear Sir:

This is in response to Decision on the Petition under 37 C.F.R. 1.47(a) filed on 30 January 2006. In the Decision mailed 27 September 2006, the petition was dismissed without prejudice. Applicants, Michael O'Regan and Ian Deakin respectfully request reconsideration of this Petition, and submit that all of the requirements under 37 C.F.R. 1.47(a) are now fulfilled through the submission of this Renewed Petition. Applicants are also submitting a Two Month Extension of Time, extending the due date for submission of this Renewed Petition to 27 January 2007. The last known address of Mr. Mullins, and the petition fee, were previously submitted.

The following additional facts, supported by the enclosed declaration from Jo Wall for LogicaCMG Wireless Networks, are being submitted to support the assertion that after a diligent effort and *bona fide* attempt, inventor Robert Mullins refuses to execute the declaration for this application.

1. Jo Wall for LogicaCMG Wireless Networks, forwarded a letter dated 1 November 2005 to Mr. Mullins explaining that as part of the nationalization of the PCT application into the United States, he was being requested to sign a declaration.

2. In an email dated 7 November 2005, Mr. Mullins states that unless he is paid for this service, he will not sign the declaration.

3. On 12 December 2005, Mr. Arthur Cox forwarded a letter to Mr. Mullins explaining his obligations to sign the declaration.

4. On 14 December 2005, Mr. Mullins sent an email to Jo Wall noting that he received the letter from Mr. Cox, and requested a copy of the agreement noted therein. In an email dated 21 December 2005 from Mr. Mullins to Jo Wall, Mr. Mullins again states that he will not sign the declaration without compensation.

5. In a letter dated 21 November 2006, Mr. Michael Lucey of Tomkins & Co., European patent counsel for LogicaCMG, again requests that Mr. Mullins execute the declaration. Both the declaration and copy of the corresponding published PCT application are forwarded to Mr. Mullins in the letter.

6. As of the date of this Renewed Petition, Mr. Mullins has still not returned a signed Declaration.

Finally, as requested, a newly signed declaration by Michael O'Regan is enclosed with this Petition.

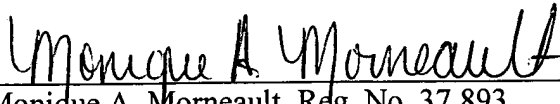
Appln. No. 10/534,206
Attorney Docket No. 052229-0012
Renewed Petition Under 37 C.F.R. § 1.47(a)

Thus, Applicants Michael O'Regan and Ian Deakin submit that all the requirements under 37 C.F.R. 1.47(a) are met, and respectfully request this Renewed Petition be granted. Please contact the undersigned attorney with any questions concerning this Petition. Please charge any additional fees or credit any overpayments associated with this Petition to our Deposit Account No. 13-0206.

Respectfully submitted,

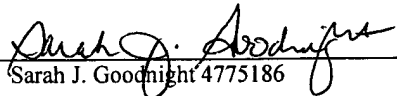
Dated: January 23, 2007

By:


Monique A. Morneault, Reg. No. 37,893
Customer No. 1923
McDermott Will & Emery LLP
227 W. Monroe
Chicago, Illinois 60606-6630
312.984-7699

CERTIFICATE OF MAILING (37 C.F.R. § 1.8a)

I hereby certify that this correspondence is, on the date shown below, being deposited with the United States Postal Service, with first class postage prepaid, in an envelope addressed to: Mail Stop PCT, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 23, 2007.


Sarah J. Goodnight 4775186



**Re: In the Matter of Missing Inventor
Declaration for
US Patent Application No. 10/534,206**

I, Jo Wall, am an employee of LogicaCMG Wireless Networks B.V. do hereby solemnly and sincerely declare as follows:

1. Part of my function and employment duties at LogicaCMG is to monitor and manage the patent portfolio of LogicaCMG. CMG IPR Telecommunications B.V. is part of the LogicaCMG Group.
2. The rights to the invention were assigned by the inventors to CMG IPR Telecommunications B.V. on 29 October 2002. The priority patent application was filed at the European Patent Office in the name of CMG IPR Telecommunications B.V. on the 7 November 2002. A PCT patent application was filed on 6 November 2003 claiming priority from the European application and assigned International patent application number PCT/IE2003/000150.
3. I am responsible for the maintenance of this application since November 2004. I was made aware from prosecution on the PCT file that it was not possible to obtain the PCT Power of Attorneys from Mr. Mullins or the other named inventors during prosecution of PCT/IE2003/000150.
4. On 1 November 2005 I wrote to Mr. Robert Mullins requesting that he execute a Declaration in connection with US patent application no. 10/534,206, which was nationalised from PCT application no. PCT/IE2003/000150. I also wrote to the other named inventors Mr. Michael O'Regan and Mr. Ian Deakin requesting execution of the declaration.
5. On 7 November 2005 I received an e-mail from Mr. Mullins indicating that he was not willing to sign the declaration unless he received payment in advance of signing the declaration.
6. I engaged Arthur Cox Solicitors, based in Dublin Ireland, in December 2005 in an effort to obtain an executed declaration from Robert Mullins and the other two listed inventors. Arthur Cox Solicitors were able to obtain executed declarations from Michael O'Regan and Ian Deakin only.

7. Mr. Robert Mullins contacted me on 14 December 2005 by e-mail as a result of a letter sent by Arthur Cox Solicitors dated 7 December 2005 requesting a copy of the original assignment assigning his rights of the invention to CMG IPR Telecommunications. I understand Arthur Cox Solicitors forwarded a complete copy of the assignment to Mr. Mullins.
8. I received a further e-mail from Mr. Robert Mullins on 21 December 2005 with a request for €5000 payment in return for him to execute the declaration.
9. It is not our company policy to pay former employees in return for executing documents. Indeed both Mr O'Regan and Mr. Deakin executed the declaration without demanding or receiving any payment. At all times I believe we have made all possible diligent efforts to obtain the declaration from Mr Mullins.
10. As a final resort we instructed our European patent attorneys, Tomkins & Co., to contact Mr. Mullins one last time on 21 November 2006. Mr Mullins contacted Mr Michael Lucey by telephone on 4 December 2006 and informed him that he will not execute the declaration.



Jo Wall
on behalf of
LogicaCMG Wireless Networks B.V

16-1-07.
Date

LogicaCMG Wireless Networks B.V.
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P.O. Box 261
3430 AG Nieuwegein
The Netherlands
tel +31 (0)30 210 3 333
fax +31 (0)30 210 5 555
www.logicacmg.com

Mr Robert Mullins
12 Beechwood Close
Silversprings
Clonmel
County Tipperary
Ireland

1st November 2005

Dear Robert

Re: The Nationalisation of PCT Patent Application Number: PCT/IE2003/00150 in the United States, Entitled "System for Billing Rating and Selection of Accounts" of CMG IPR Telecommunications B.V.

As part of the management of the patents for LogicaCMG Wireless Networks we are in the process of nationalising the above patent. To nationalise a patent in the United States, the US Patent Office requires that the named inventors sign the declaration, although the patent itself is owned by CMG IPR Telecommunications B.V.

In relation to the declaration there are two options available to you. Where you do not wish to sign the declaration, please can you reply in writing to confirm your intention? However, should you be willing to sign the declaration, please can you let me know which is the best address to arrange for a courier to deliver the required documentation to you. I will also arrange for the signed documentation to be collected therefore there should be no cost incurred by you.

For the ease of communication, I would appreciate it if you could please use my email address as this will allow us to have more immediate contact. My contact details are below:

Email: jo.wall@logicacmg.com
Switch Board: +31 30 210 3333
Mobile: +31 6 5252 6400

If you have any questions or require further clarification please do not hesitate to contact me. In the meantime, I look forward to hearing from you.

Kind regards

Jo Wall
Director – IPR/Patents
CTO Function

Registration Number Chamber of Commerce
57169448

The new general terms and conditions apply to all our offers and agreements, filed with the clerk of the district court in The Hague, The Netherlands, on the third of June 2003 under number 60/2003

Michael Lucey

From: Robert Mullins [r_p_mullins@yahoo.co.uk]
Sent: 07 November 2005 12:30
To: Wall, Jo
Subject: Re. Nationalisation of patent application

Hi,

You contacted me recently regarding the nationalisation of a patent PCT/IE2003/00150 regarding the System for billing rating and selection of accounts.

To provide you with some background on this, it was based on the mCharger product which myself and several others worked on during 2001 and 2002 while we were employees of CMG Telecommunications in Cork, Ireland. On my own initiative and with the help of Patent Attorneys, Tomkins, based in Dublin, I worked on the formulation and articulation of this patent over a nine month period. This was done in the belief that what the work I was doing would provide CMG with IP capital and would help with providing my colleagues and I with future employment.

In most companies it is normal practice to reward such initiative and the accumulation of intellectual property through bonuses and career advancement. However, shortly after the final draft of this patent document and its submission, our office was closed and myself and my colleagues were unceremoniously made redundant.

If you wish for me to give my signature I will require payment for this service and I will also need to get legal advice and such costs will also need to be covered by you. If you are amenable to this then please let me know and we can progress this.

Regards,

Robert Mullins

How much free photo storage do you get? Store your holiday snaps for FREE with Yahoo! Photos. Get Yahoo! Photos <http://us.rd.yahoo.com/mail/uk/taglines/default/photos/*http://uk.photos.yahoo.com/>

ARTHUR COX

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mail@arthurcox.com www.arthurcox.com

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Fax +44 28 9023 3164

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London EC4A 3DF
Telephone +44 20 7213 0450
Fax +44 20 7213 0455

NEW YORK
570 Lexington Avenue, 28th Floor
New York, NY 10022
Telephone +1 212 159 0808
Fax +1 212 686 1237

EOG/eog
Direct Dial : 618 0693

12th December 2005

BY COURIER

Robert Mullins
12 Beechwood Close
Silversprings
Clonmel
Co. Tipperary

Re: Nationalisation of Patent Application
Our Client: Logica CMG

Dear Robert

We refer to your email of 7th November 2005 to Jo Wall of our client, Logica CMG, regarding the nationalisation of patent PCT/IE2003/00150. We regret the position you have adopted but will set out certain facts below that might help to clarify matters.

You will recall that you entered into an Assignment agreement on 29th October 2002, over and above similar terms which appeared in your Terms and Conditions of Employment. We attach a signed copy of the Assignment for your convenience. The relevant section of this agreement provides as follows:

NOW THIS ASSIGNMENT WITNESSETH

- The Inventors as Trustees hereby assign to the Assignees absolutely the Invention, any improvements in or modifications thereof, and any know-how relating thereto together with all rights and interest in the same and all rights and powers to make application for patent in the name of the Assignees, or in the name of its nominee, in Ireland and in any other country of the world whether under the Patent Co-operation Treaty or otherwise in respect of the Invention or improvements in or modifications thereof, together with all rights and benefits arising therefrom under the International Convention for the Protection of Industrial Property or the Treaty Establishing the World Trade Organisation.*

JOHN O'DRISCOLL, DAVID L. O'CONNOR, ROBERT BURTIN, JOHN V. O'DRISCOLL, ROSAN WALSH, DIANE O'CONNOR, JOHN SWANER, MICHAEL STUBBS, JOSEPH LEECH, WILLIAM JENNIFER, LUCAS MCCARTHY, NICHOLAS G. MORRIS, DILLIAN HAYES, DAVID O'DONOVAN, COLIN DUGAN, CARL O'SHEA, JAMES KELLY, JOHN NEAVE, CONOR McDERMOTT, PATRICK MCGOWAN, GREGORY HENNESSY, SHARON GILES, COLIN BYRNE, CHRISTINE DEYON, CLAREY BOWLER, GREGORY GILES, DAVID LORRY, STEPHEN HENNESSY, DILLIAN DUGAN, SARAH CONNELL, KATHLEEN GARDNER, PATRICK O'ROURKE, ELIZABETH BOWMAN, WILLIAM DAI, ANDREW LEANE, JOHN MENDON, PETER O'BRIEN, PETER O'CONNOR, BRIAN O'CONNOR, MARK SPOONER, MARK HARR, JAMES MARRIN, DIANE SMITH, MARGARET MCDONNELL, KEVIN MURPHY, GORDON KISSANE, DAVID CANNON, RICHARD HURLEY, KATHY LANGFORD, JIM McILLOREY, SIONA RATTLEY, PHILIP SMITH, KENNETH EGAN, JOHN CLACKIN, BRIAN SHERMAN, HELEN O'DONOVAN, CONOR HURLEY, JILL WILLIAMS, ALEX McLELLAN, GILLES BUTT, NAO O'HAGAN, PETER O'NEILL

CONSULTANTS: PETER McLELLAN, JANA SMITH, JIM G. FISH, PETER McLELLAN, DEAN KENNEDY, DEAN SMITH, DEAN SMITH, DEAN SMITH

2. *The Inventors hereby covenant with the Assignees as follows:*
 - (i) *that they will (so far as necessary) permit and enable the Assignees to apply for and will take all reasonable steps to assist the Assignees or its nominee in obtaining the grant of patent or like protection in respect of the Invention hereinbefore assigned in any territory as may be required by the Assignees*
 - (ii) *that they will at the request and cost of the Assignees execute and do all such documents, acts and things as may be necessary for the purpose of sub-paragraph (i) hereof and for vesting any relevant invention, application for patent, patent, know-how, copyright or design in the Assignees or its nominee absolutely.*
3. *The Inventor hereby irrevocably appoints the Assignees as their Attorney in their name to execute and do any document act or thing which may be necessary to comply with the provisions of Clause 2 hereof.*

On the basis of the above, we again request that you sign the attached Declaration for the US Patent Office, so as to avoid being in breach of your Assignment agreement.

We trust that further action can be avoided and look forward to your immediate cooperation. Should we not hear from you by Friday next, 16th December 2005, our client will take such steps as are necessary to protect its interests.

Yours faithfully


ARTHUR COX

Michael Lucey

From: Robert Mullins [r_p_mullins@yahoo.co.uk]
Sent: 14 December 2005 10:08
To: Wall, Jo
Subject: Re, Nationalisation of patent application

Hi,

I received a letter from your solicitors recently. The letter refers to certain clauses within a document however it did not contain a complete or even partial copy of the document, so there is no way that I can evaluate it.

I would be obliged if you could forward me a photocopy of the original document including any signatures which it may contain.

Regards,

Robert Mullins

Yahoo! Messenger <http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com> NEW - crystal clear PC to PC calling worldwide with voicemail <http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com>

Michael Lucey

From: Wall, Jo [jo.wall@logicacmg.com]
Sent: 14 December 2005 12:22
To: Robert Mullins
Subject: RE: Re. Nationalisation of patent application

Hi

Thanks for the email. I have requested that Arthur Cox dispatch this to you.

Kind regards

Jo

From: Robert Mullins [mailto:r_p_mullins@yahoo.co.uk]
Sent: 14 December 2005 11:08
To: Wall, Jo
Subject: Re. Nationalisation of patent application

Hi,

I received a letter from your solicitors recently. The letter refers to certain clauses within a document however it did not contain a complete or even partial copy of the document, so there is no way that I can evaluate it.

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Regards,

Robert Mullins

Yahoo! Messenger
<http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com%20%0d%0a> NEW - crystal clear PC to PC calling worldwide with voicemail
<http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com%20%0d%0a>

Michael Lucey

From: Wall, Jo [jo.wall@logicacmg.com]
Sent: 14 December 2005 12:15
To: Emmet OGrady
Subject: Nationalisation of patent application

Hi Emmet

Please can you arrange for this to be sent to Robert.

Many thanks

Jo

From: Robert Mullins [mailto:r_p_mullins@yahoo.co.uk]
Sent: 14 December 2005 11:08
To: Wall, Jo
Subject: Re: Nationalisation of patent application

Hi,

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Robert Mullins

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<http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com%20%0d%0a>

Michael Lucey

From: Robert Mullins [r_p_mullins@yahoo.co.uk]
Sent: 21 December 2005 16:44
To: Wall, Jo
Subject: RE: Re. Nationalisation of patent application



CMG_Patent_v1.0.
doc

Hi,

I attach a copy of CMG Telecommunications internal patent policy which was put in place in the year 2000. Among other things this outlines a policy of rewarding patent inventors and gives details of the amounts of such rewards. At the time this was Stg 2100 in total, or approximately 3000 euros.

I have no objection in principle to facilitating your processing of the patent, however, if you expect me to honour the terms of my previous employment, then I expect that you should also honour the policy of my previous employer, of which no part was followed through.

Given that I am, involuntarily, no longer an employee of CMG and cannot expect to accrue any other benefits from having been an inventor of one of their products, I request that you forward me a cheque for 5000 euros, in return for which I will sign the form which you have sent to me and dispatch it back to you.

Regards,
Robert Mullins

"Wall, Jo" <jo.wall@logicacmg.com> wrote:

Hi

Thanks for the email. I have requested that Arthur Cox dispatch this to you.

Kind regards

Jo

From: Robert Mullins [mailto:r_p_mullins@yahoo.co.uk]
Sent: 14 December 2005 11:08
To: Wall, Jo
Subject: Re. Nationalisation of patent application

Hi,

I received a letter from your solicitors recently. The letter refers to certain clauses within a document however it did not contain a complete or even partial copy of the document, so there is no way that I can evaluate it.

I would be obliged if you could forward me a photocopy of the original document including any signatures which it may contain.

Regards,

Robert Mullins

Yahoo! Messenger <http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com%20%0d%0a> NEW - crystal clear PC to PC calling worldwide

with voicemail <[http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/
*http://uk.messenger.yahoo.com%20%0d%0a](http://us.rd.yahoo.com/mail/uk/taglines/default/messenger/*http://uk.messenger.yahoo.com%20%0d%0a)>

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Robert Mullins

email : r_p_mullins@yahoo.co.uk

phone : +353 87 2409338

Play Santa's Celebrity Xmas Party <<http://santas-christmas-party.yahoo.net/>> , an exclusive game from Yahoo!



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Also at Munich

Robert Mullins
12 Beechwood Close
Silver Springs
CLONMEL
County Tipperary

Your reference

Our reference

Date

PO650US/ML/GNK

21 November, 2006

Dear Robert,

Re: **US Patent Application No. 10/534,206**
"System for Billing, Rating and Selection of Accounts"
In the name of CMG IPR TELECOMMUNICATIONS B.V. et al

I refer to the above US Application and the correspondence you had between Jo Wall of Logica CMG and Arthur Cox Solicitors in 2005 and early 2006 in relation to the above identified application.

Tomkins have been instructed by LogicaCMG to contact you one final time in an effort to obtain your signature for the enclosed Declaration that must be submitted at the US Patent and Trademark Office. I enclose a fresh copy of the Declaration for you to review and for you to execute and return to Tomkins as soon as possible. I also enclose another copy of the published PCT Patent Specification on file at the USPTO, you should already have a copy, for your convenience.

I also enclose an Assignment document executed by you, which you have seen, that effectively assigns your rights to the application to CMG IPR Telecommunications B.V.. Failure to execute the enclosed Declaration could have serious consequences by virtue of Clauses 2 and 3, as the assignment document legally obliges you to execute any further documents related to the Patent Application.

If you are unwilling to execute the document, I would appreciate if you could sign the enclosed letter addressed to Tomkins and return it to us in order to complete our file.

If you have any queries, please do not hesitate to contact me by telephone – direct line 012026718 or by e-mail at mlucev@tomkins.com.

We look forward to hearing from you as a matter of urgency.

Yours sincerely,

Michael Lucey
Tomkins & Co.

Encls. Michael Kiernan BCL Dip Eur Law MITMA* · Michael Shortt BCL Dip Eur Law* · Christina Gates PhD**
Simon Gray DIPS EBS MITMA* · Cathal Lane BSc(Hons)**

Seamus Doherty Dips* · Sinéad Dunne MSc* · Olivia Catesby BSc(Hons)* · Michael Lucey BE(Hons)* · Orlaith Reedy BE(Hons)*
Stephen Murnaghan PhD CPA* · Aoife O'Neill BE(Hons) RPA* · Stéphane Ambrosini BA(Hons)*
Consultants: Andrew Parkes MA FITMA** · Peter Shortt BCL Dip Eur Law** · Michael Walsh BE M Eng Sc CEug** · Gerald Nolan*
Financial Controller: David Gardiner BNS FCA · *European Patent Attorney/Chartered Patent Attorney · RTMA

542229

12 Beechwood Close
Silver Springs
Clonmel
Co. Tipperary

Tomkins & Co.
5 Dartmouth Road
Dublin 6

For the Attention of Michael Lucey

Re: US Patent Application No. 10/534,206
"System for Billing, Rating and Selection of Accounts"
In the name of CMP IPR TELECOMMUNICATIONS B.V. et al

Dear Michael,

I refer to your letter of 21 November 2006 and confirm that I am unwilling to execute the Declaration for filing at the US Patent and Trademark Office in connection with the above application.

Regards.

Yours sincerely,

ROBERT MULLINS

DATED:

ml/2147